

CONFIDENTIALNIO/PE
INCOMING

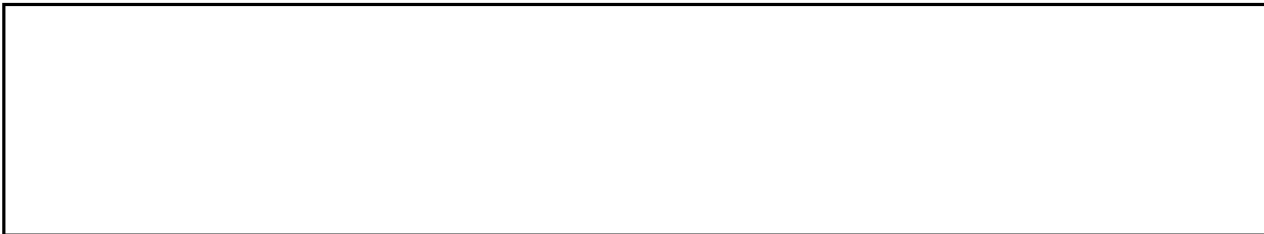
25X1

14/ /

IMMEDIATE

FRP: ,6. ,8

STATE



82 9292279 SCO

PAGE 001

NC 9292279

TOR: 210703Z AUG 82

OO RUEAIIB
 ZNY CCCCC ZOC STATE ZZH
 OO RUEHC
 DE RUEHC #5126 2330657
 ZNY CCCCC ZZH
 O 210104Z AUG 82 ZEX
 FM SECSTATE WASHDC
 TO EC COLLECTIVE IMMEDIATE
 RUEHMO/AMEMBASSY MOSCOW IMMEDIATE 0000
 RUEHKO/AMEMBASSY TOKYO IMMEDIATE 0000
 RUFHNA/USMISSION USNATO IMMEDIATE 0000
 RUEHOT/AMEMBASSY OTTAWA IMMEDIATE 0000
 BT
 C O N F I D E N T I A L STATE 235126

E.O. 12356: DECL: OADR
 TAGS: ETRD, EEWT, EEC, UR, US
 SUBJECT: COMMERCE LETTER TO EUROPEAN FIRMS ON SANCTIONS

1. C - ENTIRE TEXT.

2. SUMMARY. EUR DAS NILES INFORMED UK, ITALIAN, FRENCH AND FRG EMBASSY REPS AUGUST 19 OF COMMERCE DEPARTMENT INTENTION TO ADVISE FIRMS POSSIBLY CONTEMPLATING SHIPMENT IN VIOLATION OF U.S. SANCTIONS OF THEIR LIABILITY TO PENALTIES UNDER THE EXPORT ADMINISTRATION ACT. NILES EXPLAINED U.S. RATIONALE AND FIRMNESS OF PURPOSE IN MAINTAINING THE SANCTIONS, BUT MADE CLEAR U.S. DESIRE TO HANDLE OUR DIFFERENCES IN LOW-KEY MANNER AND AVOID SPILLOVER INTO OTHER AREAS. REACTION BY ALLIED REPS WAS RESTRAINED, BUT MADE PLAIN DEEP CONCERN OVER IMPACT OF CONFRONTATION ON SANCTIONS ISSUE COMBINED WITH HOPE THAT MATTER CAN BE HANDLED WITH MINIMUM OF PUBLIC POLEMICS. FRENCH INDICATED GOF WOULD ACT BY AUGUST 24 TO REQUIRE DRESSER TO SHIP AVAILABLE COMPRESSORS. END SUMMARY.

3. DEPARTMENT CALLED IN UK, ITALIAN, FRENCH AND FRG EMBASSY REPS SEPARATELY, AUGUST 19, TO INFORM THEM OF COMMERCE PLAN TO SEND ADVISORY LETTER TO COMPANIES WHICH MAY BE INTENDING TO EXPORT CONTROLLED ITEMS COVERED BY THE DECEMBER 30 AND JUNE 22 SANCTIONS. EUR DAS NILES HANDED EMBASSY REPS A COPY OF SAMPLE LETTER (TEXT CONTAINED PARA 14 BELOW) BEING SENT 8/19 OR 20 BY COMMERCE VIA TELEX TO AEG KANIS, CREUSOT LOIRE, DRESSER FRANCE, ALSTHOM ATLANTIQUE, JOHN BROWN ENGINEERING AND NUOVO PIGNONE. COPIES ARE BEING SENT TO DRESSER U.S.A. AND PIGNONE INC. IN THE UNITED STATES. SEPARATE LETTERS WILL BE SENT ENCLOSING COPIES OF SECTIONS 387 (ENFORCEMENT) AND 388 (ADMINISTRATIVE PROCEEDINGS) OF THE EXPORT ADMINISTRATION REGULATIONS.

4. NILES MADE SIMILAR PRESENTATION TO EACH EMBASSY REP EMPHASIZING FOLLOWING POINTS:

State Dept. review completed

CONFIDENTIAL

CONFIDENTIAL

82 9292279 SCO

PAGE 002
TOR: 210703Z AUG 82

NC 9292279

-- WE WISH TO ADVISE CONCERNED ALLIED GOVERNMENTS IN ADVANCE OF OUR INTENTION TO SEND COMMERCE LETTER. LETTER IS NOT A THREAT; IT IS DESIGNED TO AVOID ANY POSSIBILITY OF SURPRISES OR MISUNDERSTANDINGS.

-- WE HOPE THAT COMPANIES WILL NOT VIOLATE OUR REGULATIONS AND THAT FURTHER DISPUTE WILL THEREBY BE AVOIDED.

-- PRESIDENT HAS MADE CLEAR HIS STRONG FEELINGS AND FIRM POSITION. WE BELIEVE MEASURES DECEMBER 30 AND JUNE 22 MEASURES ARE REQUIRED BY THE SITUATION IN POLAND AND ARE IN CONFORMITY WITH LAW.

-- WE WISH TO LIMIT OUR DISAGREEMENT ON THE MATTER AS FAR AS POSSIBLE. WE WANT TO AVOID PUBLIC POLEMICS AND LIMIT SPILLOVER INTO OTHER AREAS, AS WE HAVE TOO MANY IMPORTANT COMMON INTERESTS TO PERMIT THIS.

-- WHILE WE WOULD LIKE TO SEE DISPUTE SETTLED, WE HAVE NO SPECIFIC PROPOSALS BEYOND WHAT HAS BEEN SAID THUS FAR.

5. REPLY BY UK ECONOMIC MINISTER (MINGAY) EMPHASIZED UK DESIRE TO CIRCUMSCRIBE DISPUTE. HE PRESENTED NOTE (SEPTTEL) ASSOCIATING UK WITH EC AUGUST 12 NOTE AND SETTING OUT WELL-KNOWN UK VIEWS OPPOSING WHAT THEY VIEW AS EXTRATERRITORIAL REACH AND RETROACTIVE EFFECT OF THE SANCTIONS. HE RECOGNIZED THAT "SOMETHING" WOULD HAVE TO BE DONE BY U.S. IF VIOLATION (SHIPMENT) OCCURS, BUT URGED THAT U.S. REACTION NOT BE DRACONIAN AND AVOID IMPACT LETHAL TO JOHN BROWN. HE ALSO URGED NEED FOR MORE UNIFIED ALLIED VIEW ON DEALINGS WITH THE SOVIETS.

6. ITALIAN COMMERCIAL COUNSELLOR (CARANTE) ASKED ABOUT REPORTS HE HAD HEARD FROM DANES RECENTLY ABOUT ENFORCEMENT OPTIONS UNDER CONSIDERATION IN USG. HE ASKED WHETHER U.S. WOULD APPLY PENALTIES ONLY AFTER SHIPMENT OF CONTROLLED GOODS AND WHETHER PENALTIES WOULD APPLY AS WELL TO PARENT COMPANY (E.G., ENI AS WELL AS NUOVO PIGNONE). WITH CAVEAT THAT HE WAS NOT SPEAKING AUTHORITATIVELY OR AS LEGAL EXPERT, NILES REPLIED THAT HIS UNDERSTANDING IS THAT, ALTHOUGH PENALTIES COULD BE INVOKED IF INTENT TO VIOLATE WERE PROVEN, PRESENT THINKING IS THAT PENALTIES WOULD MORE PROBABLY BE TRIGGERED BY ACTUAL SHIPMENT. HE INDICATED BELIEF THAT SUBSIDIARY INVOLVED IN VIOLATION LIKELY TO BE TARGET RATHER THAN PARENT COMPANY.

7. CARANTE PROBED U.S. IDEAS ON POSSIBLE DEAL INVOLVING EUROPEAN COOPERATION ON LIMITING EXPORT CREDITS TO SOVIETS IN RETURN FOR SANCTIONS MODIFICATION. NILES MADE CLEAR WE STILL AIM AT LIMITING CREDITS TO THE SOVIETS AND WELCOME THE JULY 6 AGREEMENT ON OECD CONSENSUS ARRANGEMENT ON EXPORT CREDITS. HE URGED ITALIAN SUPPORT FOR OUR EFFORTS TO STRENGTHEN NATO ECONOMIC COMMITTEE WORK IN THIS AREA. HOWEVER, HE SAID WE HAVE NO PROPOSALS FOR A "DEAL," ALTHOUGH WE WOULD, OF COURSE, BE WILLING TO DISCUSS ANY EUROPEAN IDEAS.

8. CARANTE EXPRESSED CONCERN ABOUT DIFFICULT SITUATION OF NUOVO PIGNONE, WHICH, HE SAID, NOW HAS 12 TO 14 ROTORS, AND, THUS, HAS THE PARTS ACCUMULATED TO FILL \$250 MILLION IN CONTRACTS WITH THE SOVIETS. EQUIPMENT IS DESIGNED FOR SOVIET PIPELINE AND CANNOT BE SOLD ELSEWHERE. ONLY SOLUTION IS FOR GOVERNMENT TO INTERVENE, BUT WHO COULD PAY? NILES STATED THAT WE ARE WELL AWARE OF NUOVO PIGNONE'S PROBLEMS AND ARE NOT INTERESTED IN HURTING THAT COMPANY. U.S. COMPANIES ARE ALSO

CONFIDENTIAL

CONFIDENTIAL

82 9292279

SCO

PAGE 003

NC 9292279

TOR: 210703Z AUG 82

SUFFERING. HOWEVER, OUR POSITION ON THE SANCTIONS IS CLEAR.

9. FRENCH FIRST SECRETARY FOR ECONOMIC AFFAIRS (SELZ) URGED THAT U.S. NOT INVOKE PENALTIES IF PROHIBITED SHIPMENTS MADE. HE ALSO REFERRED TO EC POSITION THAT U.S. MEASURES ARE NOT IN CONFORMITY WITH INTERNATIONAL LAW AND SAID THEY ARE UNACCEPTABLE TO FRANCE BECAUSE THEY CONSTITUTE AN ORDER FROM A FOREIGN COUNTRY CONCERNING A MATTER WITHIN FRENCH JURISDICTION. DRESSER FRANCE, AS A COMPANY REGISTERED IN FRANCE UNDER FRENCH LAW, IS SUBJECT TO FRENCH LAW.

10. NILES REPLIED THAT U.S. WILL NOT CHANGE ITS FIRM POSITION ON THE SANCTIONS. WE ARE REVIEWING THE EC NOTE ALONG WITH OTHER COMMENTS RECEIVED, BUT BELIEVE OUR POSITION IS LEGAL. WE HOPE, HOWEVER, THAT THE DISPUTE CAN BE CIRCUMSCRIBED TO AVOID DAMAGE TO OUR COMMON INTERESTS.

11. SELZ STATED THAT IF DRESSER DOES NOT RESPECT ITS CONTRACT WITH THE USSR, AS THE FRENCH GOVERNMENT HAS URGED, AND IF THE U.S. DOES NOT LIFT THE SANCTIONS, THE GOF WILL ACT "BETWEEN AUGUST 21 AND 24" BY ISSUING A LEGAL ORDER TO REQUIRE THAT THE CONTRACT BE FULFILLED. A 1959 ACT GIVES THE GOVERNMENT FULL POWER TO TAKE THIS STEP.

12. FRG ECONOMIC MINISTER (PABSCH) URGED THAT U.S. OFFER CONSULTATIONS WITH THE ALLIES ON SANCTIONS ISSUE WHILE WITHHOLDING PENALTIES IN EVENT OF VIOLATIONS. HE CITED "VERY FORMAL EXPRESSION OF VIEWS" BY THE EC-10 AS CONSTITUTING STRONG EUROPEAN REACTION AND URGED THAT U.S. GIVE IT MORE WEIGHT. HE MADE VIGOROUS PLEA THAT TWO SIDES SEEK RESOLUTION OR LIMITATION OF THE CONFLICT, BUT WARNED THAT DISPATCH OF LETTERS WOULD BE SEEN AS "SLIGHT ESCALATION" BY U.S. SIDE.

13. NILES AGREED ON NEED TO CIRCUMSCRIBE DISPUTE AND SAID WE HAVE NO PLANS TO PUBLICIZE LETTERS BEING SENT BY COMMERCE. HOWEVER, HE MADE CLEAR FIRMNESS OF U.S. POSITION. HE REITERATED THAT WE DO NOT VIEW COMMERCE LETTERS AS ESCALATION, BUT RATHER AS ADVISORY NOTICES DESIGNED TO AVOID MISUNDERSTANDINGS. HOWEVER, HE SAID THAT WHILE WE HAVE NOT DECIDED YET WHAT WE WILL DO IN THE EVENT OF VIOLATIONS, WE WILL DEFINITELY GO BEYOND MERE WARNINGS. HE, THEREFORE, URGED THAT THE COMPANIES NOT SHIP.

14. BEGIN TEXT OF COMMERCE LETTER.

THE OFFICE OF EXPORT ENFORCEMENT, INTERNATIONAL TRADE ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE, IS RESPONSIBLE FOR THE ENFORCEMENT OF THE EXPORT ADMINISTRATION ACT OF 1979, AS AMENDED, AND ITS IMPLEMENTING REGULATIONS.

IT HAS COME TO THE ATTENTION OF THIS OFFICE THAT YOUR FIRM MAY BE INTENDING TO EXPORT ITEMS WHICH FALL WITHIN THE GUIDELINES ESTABLISHED UNDER THE REGULATIONS, RESTRICTING THE EXPORT AND RE-EXPORT OF OIL AND GAS GOODS AND TECHNICAL DATA. ACCORDINGLY, WE ARE TAKING THIS OPPORTUNITY TO ADVISE YOU FORMALLY OF THE ADMINISTRATIVE AND OTHER SANCTIONS WHICH ARE AUTHORIZED BY SECTION 387.1 OF THE REGULATIONS AND THE EXPORT ADMINISTRATION ACT OF 1979 IF THESE GOODS OR TECHNICAL DATA ARE EXPORTED WITHOUT THE REQUISITE APPROVAL OF THE OFFICE OF EXPORT ADMINISTRATION.

ANY QUESTIONS YOUR FIRM MAY HAVE ABOUT LICENSING

CONFIDENTIAL

CONFIDENTIAL

82 9292279 SC0

PAGE 004
TOR: 210703Z AUG 82

NC 9292279

REQUIREMENTS OF ANY PENDING OR ANTICIPATED EXPORT
TRANSACTION MAY BE DIRECTED TO THE OFFICE OF EXPORT
ADMINISTRATION OR THE UNITED STATES EMBASSY.

A REPRINT OF PARTS 387 (ENFORCEMENT) AND 388
(ADMINISTRATIVE PROCEEDINGS) OF THE REGULATIONS IS
ENCLOSED.

SINCERELY,

THEODORE W. WU
DEPUTY ASSISTANT SECRETARY FOR EXPORT ENFORCEMENT.

END TEXT. SHULTZ

END OF MESSAGE

CONFIDENTIAL

CONFIDENTIAL